

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
LONDON DIVISION**

UNITED STATES OF AMERICA, et al.,

*Plaintiffs,*

v.

Civil Action No.: 6:03-206-KSF

DAIRY FARMERS OF AMERICA, INC., et al.,

*Defendants.*

**UNITED STATES' FIRST REQUEST FOR ANSWERS TO INTERROGATORIES  
AND FIRST REQUEST FOR DOCUMENT PRODUCTION  
FROM DEFENDANT DAIRY FARMERS OF AMERICA, INC.**

Pursuant to FRCP 26, 33, and 34, plaintiff United States hereby requests that defendant Dairy Farmers of America, Inc., answer the following interrogatories, and produce the following documents, within 30 days of service hereof.

**I. PRELIMINARY STATEMENT**

These interrogatories and document requests are intended in part to discover information relevant to your affirmative defenses, which have been asserted without specific supporting factual allegations. If you believe the production of information required by this Request can be reduced through the specification, narrowing, or elimination of any issues relating to your affirmative defenses, or any other issues, you are encouraged to discuss this with plaintiffs.

**II. DEFINITIONS**

1. "And" and "or" as used herein have both conjunctive and disjunctive meanings.
2. "Capital expenditure" means any improvements with a total cost of \$40,000 or

3. Pursuant to FRCP 26(e), your obligation to provide information requested by these interrogatories is continuing in nature. If you obtain actual or constructive knowledge of any such information at any time after responding to them, that information should be provided to plaintiff United States.

4. In responding to this Request, produce all documents in your possession or custody or subject to your control or otherwise available to you, regardless of whether the documents are possessed directly by you. These include all documents located at the offices of your affiliates that you can obtain if you ask or demand them from your affiliate.

5. If any portion of a document is responsive to this Request, produce the entire document. If any document contains privileged material, produce the entire document with the privileged material redacted. Preserve all documents and parts of a document withheld under a claim of privilege. For each document or part of a document withheld under a claim of privilege, provide an appropriate privilege log.

6. Produce documents responsive to this Request in the order that they appear in your files. Do not separate any documents that are stapled, clipped, or otherwise fastened together. Documents in folders should be produced in identical folders (including all notations). Place all documents requested by this Request in separate folders or boxes bearing the name of the person and the office or division from which the documents were produced.

#### IV. INTERROGATORIES

1. Identify and describe all facts and other information regardless of date that support any of the affirmative defenses asserted in DFA's Answer (including each specific representation or misrepresentation, instances of affirmative misconduct, or any other action or inaction taken

by any representative of the United States that you contend is relevant to DFA's affirmative defense that the "United States is estopped from asserting, or has waived the right to assert, that DFA's acquisition of a partial ownership interest in Southern Belle Dairy Co., LLC violates Section 7 of the Clayton Act based on its [the United States'] prior actions involving predecessor cooperatives to DFA"), and identify all persons with knowledge of such facts and other information.

2. Identify each dairy or DFA affiliate whose actions or whose relationship with DFA is probative of DFA's asserted affirmative defense that DFA "cannot and has not controlled or influenced the behavior of either Southern Belle dairy or Flav-O-Rich dairy in a manner that would lessen competition with regard to the sale of milk to schools," state the time period over which each dairy's actions or relationship offers probative information of DFA's asserted defense, and describe all facts and other information that support this defense.

3. Identify each set of dairies in which DFA or any DFA affiliate has had an interest where the conditions of the marketplace where those dairies operated were such that one or more of those dairies could have profitably raised the price of school milk if those dairies were to act in a manner that would lessen competition among them in the sale of school milk; state the time period over which DFA or its affiliate held an interest in those dairies over which the competitive conditions were such that one or more of those dairies would have profited from such lessened competition; and identify each school system that you believe would likely have had to pay higher prices if competition among the identified dairies were lessened.

4. If DFA could have benefitted from facilitating or encouraging any DFA affiliates to act in a manner that would lessen competition among them, identify those DFA affiliates, state

For Plaintiff United States of America

A handwritten signature in dark ink, appearing to read "JD Donaldson", is written over a horizontal line.

John R. Read

JD Donaldson

U.S. Department of Justice

Antitrust Division - Litigation I Section

1401 H Street, NW - Suite 4000

Washington, DC 20530

202-307-0001

Dated: August 29, 2003